

**South Dakota Public Utilities Commission Meeting
Tuesday, October 9, 2007, at 9:30 A.M.
State Capitol Building, Room 412
Pierre, South Dakota**

MINUTES OF THE COMMISSION MEETING

Chairman Dustin Johnson called the meeting to order. Present were: Commissioner Steve Kolbeck; Executive Director Patty Van Gerpen; Commission Advisor Greg Rislov; Commission Attorneys John Smith and Rolayne Wiest; Staff Attorneys Karen Cremer and Kara Semmler; Staff Analysts Keith Senger, Harlan Best, Bob Knadle and Dave Jacobson; Consumer Affairs Supervisor Deb Gregg; and Administrative Secretary Demaris Axthelm.

Also present were: Dave Gerdes, May, Adam, Gerdes and Thompson, representing Level 3 Communications; Brett Koenecke, May, Adam, Gerdes and Thompson, representing TransCanada Keystone Pipeline, LP; Bob Miller, South Dakota Electrical Utility Companies.

Joining the meeting by telephone were: Vice Chairman Gary Hanson; Rodrick Tobin, Siegel, Barnett & Schuit, representing WEB Water Development Association; Curt Hohn, WEB Water; Jason Topp and Colleen Sevold, Qwest Corporation; Pam Bonrud, NorthWestern Energy; and Richard Thayer, Level 3 Communications, LLC.

Administration

1. **Approval of the Minutes of the Commission Meeting Held on September 11, 2007 (Staff: Demaris Axthelm)**

Chairman Johnson moved to approve the Commission Minutes of September 11, 2007. Motion passed 3-0.

Consumer Reports

1. **Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)**

Ms. Deb Gregg reported that the Commission had received a total of 70 contacts since the last report was prepared for the September 25, 2007, Commission meeting. 14 of the contacts involved telecommunications services; 21 contacts involved electricity issues; 2 contacts involved natural gas issues; 6 contacts involved cellular phone issues; 16 contacts involved the Do Not Call Registry; and 11 contacts involved issues not regulated by the Public Utilities Commission. In 2007, 1,584 of the 1,820 complaints registered have been resolved informally. In 2006, 2,280 of the 2,466 complaints registered have been resolved informally.

Electric

1. **EL06-018 In the Matter of the Consideration of the New PURPA Standards (Staff Analyst: Nathan Solem, Staff Attorney: Kara Semmler)**

Ms. Kara Semmler stated that staff has no objections to granting Otter Tail Power Company and NorthWestern Energy an extension. Ms. Pam Bonrud, NorthWestern Energy asked the Commission for an extension until Friday, October 12, 2007.

Commissioner Kolbeck moved to grant an extension to Otter Tail Power Company and NorthWestern Energy in Docket EL06-018. Motion passed 3-0.

Hydrocarbon Pipeline

- 1. HP07-001 In the Matter of the Application of TransCanada Keystone Pipeline, LP for a Permit under the South Dakota Energy Conversion and Transmission Facility Act to Construct the Keystone Pipeline Project. (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Kara Semmler)**

Mr. Brett Koenecke, representing TransCanada Keystone Pipeline, stated that a motion for entry of a protective order was filed to facilitate the parties' use of information. Mr. Koenecke further stated that they have offered a supplemental filing and certificate and to date there has been no request to see the information. Mr. Rodrick Tobin, representing WEB Water Development Corporation (WEB Water) stated that the concerns WEB Water would have is that it would not be allowed to view any documents or items that would come under the guidelines of the protective order and asked to have the opportunity to state its case in the form of a hearing in front of the Commission to have it removed from protective status. Mr. Curt Hohn, WEB Water, stated his concerns about the motion for entry of protective order. Ms. Kara Semmler stated that staff has no objections to the motion for entry of protective order.

Chairman Johnson moved to not use the entry of protective order that was filed by the applicant and directed Commission General Counsel John Smith to draft a protective order with special treatment for the high consequence area in Docket HP07-001. Motion passed 3-0.

Telecommunications

- 1. TC06-007 In the Matter of the Petition of Level 3 Communications, LLC for Arbitration of an Interconnection Agreement with Qwest Corporation. (Commission Attorney: Rolayne Ailts Wiest)**

Mr. Richard Thayer, in house counsel for Level 3 Communications (Level 3), stated that Level 3's attempt to opt into Qwest's SGAT was prior to Qwest's attempt to withdraw the SGAT. Mr. Dave Gerdes, also representing Level 3, stated that there is a probability of a settlement between Level 3 and Qwest regarding this issue. Mr. Gerdes urged the Commission not to allow Qwest to withdraw its SGAT even if Level 3 and Qwest settle this case. Mr. Jason Topp, representing Qwest, asked the Commission to reject Level 3's request to opt into the SGAT, stating that the SGAT does not exist. Ms. Kara Semmler asked the Commission if she could submit something in writing after hearing all questions and comments that occur today. Ms. Rolayne Wiest questioned Qwest regarding its SGAT.

- 2. TC07-098 In the Matter of the Application of Silv Communication Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)**

Ms. Karen Cremer stated that there have been no petitions to intervene or comments filed. Mr. Harlan Best stated that Staff recommended that the Commission approve Silv's application for a certificate of authority, subject to the condition that Silv not offer any prepaid services (including prepaid calling cards)

and not accept or require any deposits or advance payments without prior approval of the Commission and grant Silv's request for confidential treatment of its financial statements and cash flow projections.

Vice Chairman Hanson moved to grant a certificate of authority to Silv Communication Inc., subject to the condition that Silv not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission and grant Silv's the confidential treatment of its financial statements and cash flow projections. Motion passed 3-0.

**ADDENDUM TO THE
AGENDA OF COMMISSION MEETING**

Electric

1. **EL06-018 In the Matter of the Consideration of the New PURPA Standards (Staff Analyst: Nathan Solem, Staff Attorney: Kara Semmler)**

Chairman Johnson stated that Docket EL06-018 Addendum to the Agenda would be taken up in the regular Agenda of the Commission Meeting.

There being no further business, at the hour of 10:10 am the South Dakota Public Utilities Commission Meeting adjourned.



Demaris Axthelm
Administrative Secretary